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OFFICE OF PETITIONS

In re Application of	:	
Slusarek, et al.	:	
Application No. 09/904,616	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. 81080ACPK	:	

This is a decision on the alternative petition to withdraw the holding of abandonment under 37 CFR 1.181, and the petition to revive under 37 CFR 1.137(b), filed July 16, 2003. The Office apologizes for the delay.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The above-identified application was held abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment mailed February 8, 2002. This Notice set a shortened statutory period for reply of one month or thirty days, which ever was longer. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on March 11, 2002. A Notice of Abandonment was mailed on July 16, 2002.

37 CFR 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

On petition, applicants have submitted a copy of an amendment bearing a Certificate of Transmission dated March 8, 2002. In addition, applicants have included a copy of the facsimile machine confirmation report and attested to the timely transmission.

In view of the above, the holding of abandonment is WITHDRAWN.¹

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to Group Art Unit 1621 for consideration of the amendment filed July 16, 2003 (Certificate of Transmission timely dated March 8, 2002) and the supplemental IDS filed on April 15, 2002.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo
Petitions Attorney
Office of Petitions

¹ Note that petitions to withdraw the holding of abandonment under 37 CFR 1.181 not filed within two months of the notice of allowance may be dismissed as untimely.